

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

[LB200 LB643 LB721 LB722 LB731 LB738 LB743 LB749 LB788 LB791 LB798 LB814
LB816 LB817 LB865 LB871 LB890 LB891 LB892 LB1004 LR298 LR302 LR303 LR304
LR305 LR306 LR307]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventeenth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Dierks. Would you all please rise.

SENATOR DIERKS: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Dierks. I call to order the seventeenth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and reviewed LB798 and recommend that it be placed on Select File; LB731, LB738, LB814, LB721, LB722, LB791, all on Select File, some of which have Enrollment and Review amendments attached. Banking, Commerce and Insurance Committee chaired by Senator Pahls reports LB890, LB891, LB892 to General File. And Natural Resources Committee chaired by Senator Langemeier reports LB643 to General File with amendments. Hearing notices from Transportation and Telecommunications Committee signed by Senator Fischer; and appointment letter from the Governor regarding appointments to the Board of Public Roads, Classifications, and Standards. Those will be referred to Reference for referral to standing committee for confirmation hearing. An announcement, Mr. President: Government, Military and Veterans Affairs will hold a 10:30 Executive Session under the south balcony; Government Committee at 10:30, south balcony. And that's all that I have. (Legislative Journal pages 405-407.) [LB798 LB731 LB738 LB814 LB721 LB722 LB791 LB890 LB891 LB892 LB643]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR298 and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

LR302. (Doctor of the day introduced.) Mr. Clerk, we will move to the first item under General File, LB743. [LB743 LR298 LR302]

CLERK: Mr. President, LB743 is a bill introduced by Senator Fischer. (Read title.) The bill was introduced on January 6 of this year, at that time referred to Natural Resources. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB743. [LB743]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Good morning. The purpose of this legislation is to convey parkland from the Nebraska Game and Parks Commission to two communities in the 43rd District. The village of Arnold would take possession of the Arnold State Recreation Area and the city of Atkinson would take possession of the Atkinson State Recreation Area. The Arnold State Recreation Area is approximately 32 acres and the one in Atkinson is approximately 40 acres. Both communities approached me this summer to introduce this bill on their behalf. My office worked with the Nebraska Game and Parks Commission to craft this legislation. This bill came about because the Game and Parks Commission has only been able to provide a minimum amount of maintenance and upkeep to these recreation areas due to budget constraints. Citizens from these communities have volunteered their time and energy to care for these areas and have plans to upgrade the facilities and the parks. Arnold is taking this opportunity to improve the park to attract more visitors which will increase local economic development. Since 2002, community members have gone above and beyond by mowing the park on a regular basis, even though this was not their responsibility. They have organized cleanup days and purchased special equipment to maintain the park. In the future, the village is planning to build modern rest rooms with showers to draw more campers to the area. Atkinson has been providing similar services to the park since 2003, including tree pruning and trash service. Several youth organizations in Atkinson are planning to play a big part in the upkeep of this park, including 4-H clubs and the Boy Scouts and Girl Scouts. As you can see from the fiscal note, this transfer would save the Game and Parks Commission approximately \$3,000 annually, which they plan to use on other parks. If in the future the communities decide they no longer want to operate these parklands, the lands would revert to the Game and Parks Commission. Not only will this bill be important for Arnold and Atkinson, but I believe this legislation can be used as a model by other communities who want to improve their parks area. Thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening to LB743. Members requesting to speak: Senator Hansen, followed by Senator Lautenbaugh and Senator Sullivan. Senator Hansen, you're recognized. [LB743]

Floor Debate
February 01, 2010

SENATOR HANSEN: Good morning, Mr. President, members of the Legislature. Senator Fischer, would you yield to a question or two? [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Hansen? [LB743]

SENATOR FISCHER: Yes, I would. [LB743]

SENATOR HANSEN: Thank you, Senator Fischer. I am familiar with the area at the Arnold site and not the other one, but the Arnold site has been cleaned up. They have a viewing ramp now and that was all some responsibility of the Rotary Club up there which I was asked to go and view and it was a great addition to it. Can you tell me...I have a couple of questions. What are the local groups that are responsible for these now, now that the Game and Parks wants to...are they actually giving the land and the parks to these two entities and what entities are those? [LB743]

SENATOR FISCHER: The Game and Parks would convey the land in the case of Arnold to the village of Arnold; in the case of Atkinson to the city of Atkinson. As long as the land is used for a public park, the village and the city will maintain ownership. If they are no longer used as a public park facility, then the land would revert back to the Game and Parks Commission. [LB743]

SENATOR HANSEN: I know in the case of Arnold, Arnold stepped up and they said that they would maintain the park last year when they came through the Appropriations Committee and they said we were going to have to put some or that they were going to have to put some of the parks, they weren't going to be able to maintain them. So I know Arnold stepped up and did that. My second question would be the valuation of those lands. I mean is there any way that the village of Arnold can sell them to a private entity, put houses around the lakes? Is there any of those possibilities? And the underlying question is why didn't Game and Parks sell them, sell those two parcels? [LB743]

SENATOR FISCHER: Well, I'm glad they didn't ask permission to sell them, Senator Hansen. And it's my intent with this legislation and I believe it's clear in the legislation that the land is only to be used for the public purpose of a park. So the village of Arnold and the city of Atkinson could not sell that land for development. [LB743]

SENATOR HANSEN: The underlying question is why didn't Game and Parks sell the land, though? [LB743]

SENATOR FISCHER: I believe they would have to come before this body if they were going to sell the land. I view Game and Parks land as being in trust for the public. And in this case, that public trust, that public purpose of the land is just being transferred to the village of Arnold and the city of Atkinson. [LB743]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

SENATOR HANSEN: I was in contact with Game and Parks last week and I asked them the value of those parcels and they said that they had never been valued. And they said...they told me at that time that there was some federal funds involved in the purchase of those parks originally and that's why they didn't bother getting a valuation on it. And so I'm glad that Arnold and Atkinson stepped up and decided to keep them parks, but I really question why, you know, if Game and Parks is low on funds why they...I mean they keep buying land and they keep accepting donations of land. And the maintenance is a big option, but I appreciate you bringing the bill and I will vote for it, and I'm glad that those two communities stepped up and will keep those as public parks. Thank you. Thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Lautenbaugh, you're recognized. [LB743]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Thank you, Senator Fischer, for bringing this bill. Game and Parks has a lot on its plate, as do we all. And I bring this up because the timing is somewhat fortuitous, hopefully we'll be discussing as the session wears on a bill dealing with the deer population. I'm looking forward to working with Game and Parks on that as well. I do want it to be known to the hunters throughout this state that I don't believe anyone here in this body is interested in eliminating the deer herd. But especially in my end of the state we have way too many deer. I think Game and Parks agrees with this. I've been struggling with this issue since 2007, and for my efforts we have a larger deer herd than we did when I started. I don't think A led to B, but I certainly had nothing to do with shrinking the herd, as it has increased. And the time is here to shrink the herd. I'm looking forward to working with Game and Parks on that issue. I know Game and Parks will handle the responsibilities given to them under this bill well, and I think we can all work together to a solution on a variety of issues that come within the ambit of Game and Parks. But I think the time for action is now, and I think we do need fewer deer. Thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Sullivan, you're recognized. [LB743]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I'm particularly interested in this legislation that Senator Fischer has introduced because I think it has implications for some Game and Parks properties in my district. I wondered if Senator Fischer would yield for a few questions. [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Sullivan? [LB743]

SENATOR FISCHER: Yes, I will. [LB743]

Floor Debate
February 01, 2010

SENATOR SULLIVAN: Thank you, Senator. First of all, clarify for me the transfer of the property. There was no cost involved. Is that correct? [LB743]

SENATOR FISCHER: That's correct. [LB743]

SENATOR SULLIVAN: Were either of these properties a situation where people had to have park permits to come onto the property? [LB743]

SENATOR FISCHER: Yes. [LB743]

SENATOR SULLIVAN: So will that continue when these entities take this over? [LB743]

SENATOR FISCHER: I believe that both Arnold and Atkinson do not plan to require any type of permit. Game and Parks won't have anything to do with these properties anymore. They are transferring them to the cities so it won't require a state permit. Now it will be up to the cities then on if they will charge for any kind of permit, which I doubt they will. They may be charging for camping. I know they're considering enlarging the camping areas in the park to use for the public. [LB743]

SENATOR SULLIVAN: So in other words, the transfer has been made and approved... [LB743]

SENATOR FISCHER: No, Senator, the transfer has not been made yet. This bill would allow the transfer. [LB743]

SENATOR SULLIVAN: Would be contingent on this. So if and when the transfer takes place, the caveat is to make sure that the facilities are maintained for the public. Is that correct? [LB743]

SENATOR FISCHER: That's correct. [LB743]

SENATOR SULLIVAN: Beyond that are there any other restrictions that are being identified? [LB743]

SENATOR FISCHER: No. [LB743]

SENATOR SULLIVAN: In either of these recreation areas were there Game and Parks staff involved on site? [LB743]

SENATOR FISCHER: There was no staff on site. As you know, Game and Parks has taken budget cuts, as a number of agencies with the state, and the people that were responsible for these areas had to travel to reach them. The staff had to travel...

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

[LB743]

SENATOR SULLIVAN: Sure, right. Okay. [LB743]

SENATOR FISCHER: ...which is why in many cases, too, it was local people who were picking up trash in these parks and, of course, doing all the mowing. [LB743]

SENATOR SULLIVAN: The guidelines of this proposed legislation limits the transfer to a local political subdivision. Is that right? [LB743]

SENATOR FISCHER: To the village of Arnold and to the city of Atkinson, yes. [LB743]

SENATOR SULLIVAN: So this would not extend to a situation that would involve a nonprofit organization. [LB743]

SENATOR FISCHER: This bill would not, no. [LB743]

SENATOR SULLIVAN: Okay. [LB743]

SENATOR FISCHER: (Inaudible). [LB743]

SENATOR SULLIVAN: Pardon? [LB743]

SENATOR FISCHER: Senator Sullivan, this bill only deals with the village of Arnold with regards to the Arnold State Recreation Area and the city of Atkinson with regards to the Atkinson State Recreation Area. It does not impact any other Game and Parks land. [LB743]

SENATOR SULLIVAN: Would you think then that going forward for any other Game and Parks property to be conveyed to a local entity that it would have to come before the Legislature? [LB743]

SENATOR FISCHER: That's my understanding, yes. [LB743]

SENATOR SULLIVAN: Thank you. As I said at the onset, this is something that I'm interested in. Probably most of us have these, whether it's historical parks or recreation areas or other kinds of Game and Parks properties, in our respective districts. I know I have a group in my district... [LB743]

PRESIDENT SHEEHY: One minute. [LB743]

SENATOR SULLIVAN: ...that is looking very carefully at the future of the historical park and wanting to make sure that it's maintained and remain open. And arrangements like

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

this have opportunities for local people to get involved in the future of some of these areas. So thank you very much, Senator Fischer, for your information. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Members requesting to speak on LB743: Senator Dierks, followed by Senator Avery, Senator Harms, and Senator Hadley, and Senator Haar. Senator Dierks, you're recognized. [LB743]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. This is an interesting discussion for me. I...there's some history with the Dierks and the Game and Parks. A park they own now over by southern Holt County called Goose Lake was...belonged to my grandfather, and he sold that particular lake to Game and Parks. And we've had lots of togetherness over that situation. Actually they have come and put a few...they call them blocks I think, to keep the carp from coming upstream into the lake and destroying the game fish in there. And I think it's been successful. When Game and Parks took possession of the land that now contains Ashfall up at Royal, then the director of Game and Parks, Gene Mahoney, asked me if I would bring legislation that allowed that to take place and I did that. I guess I have a question for Senator Fischer, please. [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Dierks? [LB743]

SENATOR FISCHER: Yes. [LB743]

SENATOR DIERKS: Senator Fischer, when this bill is passed and the action takes place, does Game and Parks have anything to do then with those two sites? [LB743]

SENATOR FISCHER: Senator Dierks, I believe that Game and Parks would have nothing more to do with those two recreation areas as long as they were being used for a public purpose. [LB743]

SENATOR DIERKS: Thank you. Does the Arnold site have a creek going through it and a dam on the creek like the Elkhorn River has on that site at Atkinson? [LB743]

SENATOR FISCHER: There's a small lake on the Arnold site, and I know that a lot of locals and local children use that for fishing. [LB743]

SENATOR DIERKS: Thank you very much. [LB743]

SENATOR FISCHER: I can't tell you if it...I assume it was dammed up, but I can't tell you if that's accurate or not. [LB743]

SENATOR DIERKS: Thank you, Senator Fischer. And, members, I do intend to support this legislation. Thank you, Mr. President. [LB743]

Floor Debate
February 01, 2010

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Harms, you're recognized. [LB743]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, would you yield to a question, please? [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Harms? [LB743]

SENATOR FISCHER: Yes. [LB743]

SENATOR HARMS: Senator Fischer, first, thank you for bringing this bill forward. I do support the bill. I think it may be the first of many that might come forward as we look at our fiscal issues, and if we can transfer that over and it's appropriately taken care of, may be good options for this great state of Nebraska. Senator, the only question that I really have in regard to this bill is that I don't see any criteria in here that the cities are required to meet. So in other words, about making sure that the brush is down, making sure that it meets safety standards, and all those sort of things, should there be any criteria as we look at this bill so that other cities and other people who'd like to take it over need to understand that we expect, if we're going to convey this land to them, that these are the standards you have to meet? [LB743]

SENATOR FISCHER: You know, Senator Harms, that probably wouldn't be a bad idea, but I would say to you that we don't require that of the Nebraska Game and Parks Commission, and that was a concern by the local people who live in these two areas was that the state was not taking care of them. As I said, trash wasn't getting picked up, mowing wasn't happening, and through no fault of Game and Parks. They don't have the personnel to be able to handle that. But I guess since we don't require it of the state Game and Parks, I would be a little leery to go through and put a laundry list of requirements in for local political subdivisions. [LB743]

SENATOR HARMS: Well, one thing...thank you, Senator Fischer. One thing that we can do with our own Game and Parks Commission if they're not taking care of some of the land, through the legislative process or through hearings, as you can know, we can actually get to that issue and we can begin to address the issue. If it happens to be appropriate funding or whatever it might be, at least we have a chance to address it. But in this case, we don't have the criteria and that's the only thing that I have concerns about. I understand where you're coming from in regard to that, but as I said earlier, we have a way to get to it. I don't know if we have a way to get to these two communities if they don't take care of it. So I guess I'd hope that we at least just give some consideration as we move this along, if that's really necessary, and whether or not we should put some minimum criteria in legislation that requires the cities to meet, rather than just giving it to them and listening and accepting their word. It may not work out for

Floor Debate
February 01, 2010

us. Thank you, Senator Fischer, and thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Hadley, you're recognized. [LB743]

SENATOR HADLEY: Mr. President and members of the body, I stand in support of this bill. I would ask if Senator Fischer would yield to a question. [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Hadley? [LB743]

SENATOR FISCHER: Certainly. [LB743]

SENATOR HADLEY: Senator Fischer, does the reverse hold true also? For example, if the city of Kearney wanted to give a park to Game, Fish and Parks, would that come before this body then also? If we reversed it and instead of Game, Fish and Parks giving to a city, if the city wants to give to Game, Fish and Parks, would that come before this body? [LB743]

SENATOR FISCHER: I don't know for sure, Senator Hadley. I know that the Exec Board this year, we had a hearing on some property that the Game and Parks Foundation had received that they were then going to convey to Game and Parks, and we acted on that as an Exec Board. But I don't know if that... [LB743]

SENATOR HADLEY: Okay. [LB743]

SENATOR FISCHER: ...would hold true with any property. [LB743]

SENATOR HADLEY: Thank you. I was just curious as to whether the reverse would be true also if it comes back. The second, is there any--question, Senator Fischer--this could not be considered special legislation in any way, shape, or form since we specifically talk about individual parcels of land? [LB743]

SENATOR FISCHER: In what way do you mean special? That I brought it, is it special? [LB743]

SENATOR HADLEY: No, no. Well, it's always special when you bring legislation, Senator Fischer... [LB743]

SENATOR FISCHER: Thank you. (Laugh) [LB743]

SENATOR HADLEY: ...but we've had, for example, bills where we've named specific...we had one in Transportation dealing with cemeteries and such as that. Is there a problem of just specifically naming these parcels of land in this legislation?

Floor Debate
February 01, 2010

[LB743]

SENATOR FISCHER: No. And I don't believe there is, Senator Hadley. In fact, the bill that you were referring to will be coming up later on the agenda here today and we have an amendment to clear that concern up that we had on that bill. But I see no problem with this legislation. We have to pass this in order for the land to be conveyed. [LB743]

SENATOR HADLEY: Thank you, Senator Fischer. Again, I say I support this bill. I think we need to make sure we get this in the hands of the people that can do the most good for this kind of parks. Thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Hadley. We have Senator Haar, followed by Senator Wightman. Senator Haar, you're recognized. [LB743]

SENATOR HAAR: Mr. President and members of the body, I rise in support of LB743 and would like to thank Senator Fischer for bringing the bill. I sat in on the committee hearings when these two communities came to talk about taking these parks over by the city, and I was really impressed by their enthusiasm. And, in fact, they had started to maintain these parks even before they became their property. One of the big advantages that I believe it was Arnold said they found, is because this will become a city park there will be no user fee to get into the park. And so they found that a lot more people would be using and were using the park. And I think it's a win-win certainly because it maintains recreational opportunities not only for the city of Arnold and Atkinson, but also for the people of Nebraska. Anyone can use those parks now, and it relieves the parks and rec department from that burden of maintenance and so on that they really couldn't handle. So, again, I appreciate it. I rise in support of LB743. Thank you. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Wightman, you're recognized. [LB743]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. If Senator Fischer would yield to a question, I would ask a question or two of her. [LB743]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Wightman? [LB743]

SENATOR FISCHER: Certainly. [LB743]

SENATOR WIGHTMAN: Senator Fischer, can you tell me, do Game and Parks have control of a number of recreational facilities other than just state parks? [LB743]

SENATOR FISCHER: Game and Parks has state recreation areas, they have wildlife

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

areas, so they have a number of pieces of land. I can't tell you how many. [LB743]

SENATOR WIGHTMAN: I know we have something called wayside areas. [LB743]

SENATOR FISCHER: Right. [LB743]

SENATOR WIGHTMAN: Do they have charge of those? [LB743]

SENATOR FISCHER: I believe there are some in addition to their state parks that we enjoy in Nebraska. [LB743]

SENATOR WIGHTMAN: I know we have Pressey Park down between Broken Bow and Lexington, is that something...they do manage that? Is that correct or do you know? [LB743]

SENATOR FISCHER: That's another area in my district, Senator Wightman, and that I've heard from constituents about who have concerns that it's not being cared for, and maybe we'll look at that in the future. [LB743]

SENATOR WIGHTMAN: I assume that it would be correct to say that probably none of these are profit centers for Game and Parks. Would that be a correct statement? [LB743]

SENATOR FISCHER: I think that would be correct. As I said, there's no Game and Parks employee that's on site or really even close to the area. So even though a park permit is required, there's no one policing that activity on a daily basis for sure. [LB743]

SENATOR WIGHTMAN: But I'm assuming that no park is probably a profit center in which there actually is a positive cash flow if you factored in all of their expenses. Is that correct? [LB743]

SENATOR FISCHER: I think Game and Parks has certain state parks that are profit centers for them. I would hope that they are making a profit such as Mahoney State Park. [LB743]

SENATOR WIGHTMAN: But at any rate... [LB743]

SENATOR FISCHER: But not these areas, no. [LB743]

SENATOR WIGHTMAN: ...the two you're talking about, the fees that they charge would nowhere near offset the expense of maintenance? [LB743]

SENATOR FISCHER: No, no. [LB743]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

SENATOR WIGHTMAN: So even though the state may be giving up some net asset value, in the long run, probably tax revenues and fees will be lessened by...thank you. I do stand in support of this, and I know it could be looked upon as though we're giving away state property, but I think we have to look down the road at what expenses the state has. And so I do rise in support of this bill. Thank you, Mr. President. Thank you, Senator Fischer. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Seeing no additional requests to speak, Senator Fischer, you're recognized to close on LB743. [LB743]

SENATOR FISCHER: Thank you, Mr. President and members. Thank you for your support of this bill during our discussion. As I said in my opening, I think this could be a model that could be used across the state, especially in the economic situation we're in and especially with communities that are forward-looking and willing to take on the responsibilities of these different recreation areas. I would say to Senator Harms that I certainly am willing to visit with Game and Parks and see if they have suggestions maybe on a laundry list of requirements, and I'll let you know how those discussions go. With that, I would ask that you vote in support of LB743 and we advance it to Select File. Thank you, Mr. President. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB743. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB743]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB743. [LB743]

PRESIDENT SHEEHY: LB743 advances. We will now proceed to LB871. [LB743 LB871]

CLERK: LB871, a bill by Senator Fischer. (Read title.) Introduced on January 11 of this year, referred to Natural Resources. The bill was advanced to General File. At this time, I have no amendments to the bill, Mr. President. [LB871]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB871. [LB871]

SENATOR FISCHER: Thank you, Mr. President and members. LB871 amends Section 37-413 to clarify the criteria one must meet before being eligible to supervise a person with an apprentice hunter education exemption certificate or those under 12 years old when hunting with a firearm or crossbow. The new language requires individuals ages 19 through 29 who are accompanying novice hunters who are using an apprentice hunter education exemption certificate and/or children under the age of 12 to have

Floor Debate
February 01, 2010

successfully completed either a state-approved firearm hunter education course if hunting with a firearm or crossbow or a bow hunter education course if hunting with a bow and arrow. This language clarifies this. Before I go into further detail on LB871, I'd like to provide an overview of the apprentice hunter education exemption certificate. Many of you remember this and many of you in this body were cosponsors of this bill. I introduced LB690 in 2008 to create the exemption certificate to promote hunting by providing people with the opportunity to hunt before making a substantial investment in hunter education courses. The exemption certificate allows a beginning hunter ages 12 through 29 to hunt upon purchasing a hunting permit and an apprentice hunter education exemption certificate. The apprentice hunter is required to be supervised by a person at least 19 years of age who has completed the hunter education course and holds an official hunting permit. The Nebraska Game and Parks Commission asked me to introduce this piece of legislation before you today, LB871, after they discovered a possible loophole in the exemption certificate statute. Current statute would actually allow two individuals to obtain an apprentice hunter education exemption certificate and technically be able to accompany each other on a hunt without completing hunter education. LB871 rectifies this potential problem and was unanimously voted out of the Natural Resources Committee. The Game and Parks Commission has a proud history of promoting hunter safety. Their hunter education program has over 1,000 volunteers teaching an average of 7,000 to 8,000 students annually. Passing LB871 will continue to support that history of safety while maintaining the integrity of the apprentice hunter education exemption certificate. Thank you, Mr. President. [LB871]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of LB871. Member requesting to speak, Senator Harms, you're recognized. [LB871]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, would you yield, please? [LB871]

SENATOR FISCHER: Yes. [LB871]

PRESIDENT SHEEHY: Senator Fischer, would you yield? [LB871]

SENATOR FISCHER: Yes, I will. [LB871]

SENATOR HARMS: On page 4, lines basically 3 through 4, the question I have...first of all, Senator, I support this bill and thank you very much for bringing it in, bringing it to the floor. The statement that says that, "If such person is 19 years of age or older but not older than 29." I want to stop there. Does this prohibit an old man like me, Senator Fischer, being able to get involved with his grandson or granddaughter in this process? I'm hoping that we don't...I mean, there are a lot of grandparents that take a great interest here, and I just wanted to make sure that...is there any way that an old man like me could get involved with that and be able to do that and not be limited and be able to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

get involved with their grandson or granddaughter or children next door? [LB871]

SENATOR FISCHER: Senator Harms, first of all, I have no idea who you're talking to or referring to as an old man. But secondly, this program encourages people to take younger people, and those are the ages that you listed there, and encourages those younger people to get this apprentice hunter certificate. And then an older person like you and me, if we have our hunting license, we can take them with us, and that was the original purpose of the bill. [LB871]

SENATOR HARMS: Thank you, Senator Fischer, for that explanation. Thank you, Mr. President. [LB871]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Gay, you're recognized. [LB871]

SENATOR GAY: Thank you, Mr. President. Would Senator Fischer yield to a question? [LB871]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Gay? [LB871]

SENATOR FISCHER: Yes, I will. [LB871]

SENATOR GAY: Thank you, Senator Fischer. I was kind of listening in there. I'm sorry if I missed what...so the question not-so-old man, myself let's say, if my son has his certificate and I don't, I've never hunted, but we've had offers, could I then...I could accompany with him but I couldn't carry a firearm, could I, now under the law? Do you know? [LB871]

SENATOR FISCHER: Not unless you have a license. I believe you're over 29, Senator Gay. [LB871]

SENATOR GAY: Yeah, fortunately. But so the situation is, when the 29 was put on, you still need to go...I would then need to go through hunter safety and all that, too, in order to hunt. [LB871]

SENATOR FISCHER: To get a license, yes. [LB871]

SENATOR GAY: Yeah. But this isn't freeing it up for anybody who wants to just go try it out and say, boy, I'd like to...they... [LB871]

SENATOR FISCHER: Yes, this frees it up for...to get more people involved in hunting, to get younger people involved and to keep it a safe activity for them because they would be accompanied by a licensed hunter. [LB871]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

SENATOR GAY: Yeah, and I understand and that's one of those things where we've had...probably should look for more opportunities, just been busy, we haven't, but you'd want to send your child out, obviously, with somebody you would feel great comfort with if they're out there hunting. But I like the bill. I think it's a good bill. I just wanted to clarify that. It's probably something later I might want to get into, but I suppose I could go to a hunter safety class. I probably should anyway, so. [LB871]

SENATOR FISCHER: I think you should. [LB871]

SENATOR GAY: (Laugh) Thank you, Senator Fischer. [LB871]

SENATOR FISCHER: Thank you. [LB871]

PRESIDENT SHEEHY: Thank you, Senator Gay. Seeing no additional requests to speak, Senator Fischer, you're recognized to close. [LB871]

SENATOR FISCHER: Thank you, Mr. President and members. As I said in my opening, LB871 was brought to my attention by the Nebraska Game and Parks Commission. They were concerned that there was a possible loophole in the law, and we wanted to tighten that up so that the apprentice hunter program would remain a very safe program. And I encourage you to advance this bill to Select File. Thank you, Mr. President. [LB871]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB871. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB871]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB871. [LB871]

PRESIDENT SHEEHY: LB871 advances. We will now proceed to LB749. [LB871 LB749]

CLERK: LB749, a bill by Senator Louden. (Read title.) The bill was introduced on January 6 of this year, referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1587, Legislative Journal page 370.) [LB749]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Louden, you're recognized to open on LB749. [LB749]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I bring LB749, a bill to designate certain roads as recreational roads. This bill will designate the

Floor Debate
February 01, 2010

road to the Nebraska Veteran Cemetery in Box Butte County as a recreational road in District 49 that I represent. I introduced this bill so that the road could have a revenue source for maintenance. The State Recreation Road Fund is administered by Nebraska Department of Roads with the approval of the Governor for the construction and maintenance of dustless-surface roads designated by the state recreation roads. These roads designated by the Game and Parks Commission give direct and immediate access to or are located within state parks, state recreation areas, or other recreational or historical areas. Revenue to this fund is derived from a fee of \$1.50 for each motor vehicle registered annually. At the present time, all maintenance has to be funded by Box Butte County to this road to the cemetery which is about one mile. By taking a source of revenue such as this, it would help eliminate some of the burden placed on Box Butte County for maintenance. There is a committee amendment, AM1587, to clarify the constitutional status of the legislation by deleting the words "in Box Butte County." With that, I would ask that it be taken care of by the Chairman of the Transportation Committee because it was an error made in putting Box Butte County in the legislation and we considered it could be a constitutional question. Thank you, Mr. President. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Loudon. You've heard the opening to LB749. As was noted, we do have a Transportation and Telecommunications amendment, AM1587. Senator Fischer, you're recognized to open. [LB749]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM1587, corrects a constitutional question of creating a special class. The amendment removes Box Butte County from the bill so that it will apply to any state veterans cemetery in Nebraska. It should be noted that the Nebraska Department of Veterans Affairs considers the veterans cemetery in Alliance as the only true state veterans cemetery. Thank you, Mr. President. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of AM1587 to LB749. Seeing no requests to speak, Senator Fischer, you're recognized to close. [LB749]

SENATOR FISCHER: Thank you, Mr. President and members. I would urge your adoption of the amendment and then the advancement of the bill. Thank you. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the adoption of the committee amendment, AM1587. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB749]

CLERK: 37 ayes, 0 nays on adoption of committee amendments. [LB749]

PRESIDENT SHEEHY: AM1587 is adopted. We will now return to floor discussion on

Floor Debate
February 01, 2010

LB749. Member requesting to speak, Senator Sullivan, you're recognized. [LB749]

SENATOR SULLIVAN: Thank you very much, Mr. President. I wonder if Senator Fischer would mind yielding for a question. [LB749]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Sullivan? [LB749]

SENATOR FISCHER: Certainly. [LB749]

SENATOR SULLIVAN: Thank you, Senator Fischer. This is...as I'm trying to pick apart some of the applicability to your earlier piece of legislation and then looking at the fiscal note on this legislation, how would this relate? I assume that the roads leading into those properties that are going to be conveyed to at the city of Atkinson and the city of Arnold, would they still be able to be maintained under the State Recreation Road Fund? [LB749]

SENATOR FISCHER: Possibly, Senator Sullivan, but I can't recall immediately if those are county or state roads and what fund they're drawing maintenance from currently, so I can't specifically answer your question. [LB749]

SENATOR SULLIVAN: I'm guessing that there will be various issues like this raised. And, you know, what seems simple at the onset when you convey property from one entity to another, there perhaps are ramifications in other areas. And I would guess that in my exploration of looking at transfer of Game and Parks properties to local entities, this is one of the things I'm going to have to explore. Thank you. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Wallman, you're recognized. [LB749]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Louden yield to a question? [LB749]

PRESIDENT SHEEHY: Senator Louden, would you yield to Senator Wallman? [LB749]

SENATOR LOUDEN: Yes, I would. [LB749]

SENATOR WALLMAN: Yes, Senator, in regards to cemeteries. In other words, these are just the one destination. You know, it's not a road that goes by there...or it just goes to the cemetery? [LB749]

SENATOR LOUDEN: That's all the farther the maintenance would be is as far as that cemetery. Yes, the road goes beyond that. It goes to the airport and golf course and other recreational areas. But at the present time what we consider just the road to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

cemetery is just that one mile to the cemetery. [LB749]

SENATOR WALLMAN: Okay. Thank you. Thank you, Mr. President. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Seeing no additional requests to speak, Senator Louden, you're recognized to close on LB749. [LB749]

SENATOR LOUDEN: Thank you, Mr. President. And I would urge you to vote in favor of this bill as the veterans cemetery in Alliance is the only state veterans cemetery on the system at the present time. Thank you, Mr. President. [LB749]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the closing. The question before the body is on the advancement of LB749. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB749]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB749. [LB749]

PRESIDENT SHEEHY: LB749 advances. We will now proceed to LB816. [LB749
LB816]

CLERK: LB816 by Senator Fischer. (Read title.) The bill was introduced on January 8 of this year, at that time referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1619, Legislative Journal page 370.) [LB816]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB816. [LB816]

SENATOR FISCHER: Thank you, Mr. President and members. This is the last one for a while, so hopefully we'll move through it quickly. LB816 is meant to add increased protections in the relationship between motor vehicle manufacturers and their franchise dealers. The reason for this regulation is because of the lack of bargaining power of the dealers in relation to the manufacturers. This lack of power is evidenced by all 50 states having motor vehicle franchise laws. As a result of the volatility in the motor vehicle industry seen by the unilateral closing of dealerships across Nebraska and the United States in 2009, a further review of the statutes regulating the licensing of motor vehicle dealers and manufacturers in Nebraska was conducted. This included analyzing what other states have done to ensure that consumers are not left with having to travel hundreds of miles to get their vehicles serviced. In order to continue to protect the public and prevent manufacturers from eliminating competition and availability of sales and service centers, LB816 brings recent changes made in many other states to Nebraska franchise laws. There are no amendments in the bill that are not already in law in other states and that manufacturers and distributors are already complying with. The bill

Floor Debate
February 01, 2010

renames Chapter 60, Article 14 as the Motor Vehicle Industry Regulation Act. It creates new definitions in the act that fit customary terms in the industry. With regard to manufacturers and distributors, the bill requires them to make a statement that they will be subject to the act and the rules and regulations of the Industry Licensing Board at the time of the issuance or renewal of the license. The manufacturer is also required to make additional payments when a franchise is terminated or not renewed, including the fair market value of the line make being terminated, a contribution of that line make towards the rent payment of the facility, or two years' rent. The dealer is required to mitigate damages by offering the facility for sale or lease. As far as additional restrictions of the manufacturer's actions, the bill prohibits the manufacturer or distributor from requiring the dealer to join an advertising association; fixing the pricing of motor vehicles for retail or requiring the removal of competing products or line makes; failing to offer a similar franchise agreement to the franchisee if the manufacturer's ownership or method of distribution changes; taking adverse action against a dealer for a sold motor vehicle being exported outside of the United States; favoring certain dealers by selling motor vehicles at lower prices or offering a promotional program or incentives only to certain dealers; requiring dealers to exclusively sell the manufacturer's service or maintenance contracts or provide financing with a certain finance source; or denying warranty claims based on technicalities such as a clerical error. LB816 will give Nebraska dealers and citizens the same protections and fair treatment already being received in other states. Thank you, Mr. President. [LB816]

PRESIDENT SHEEHY: Thank you, Senator Fischer. As was stated, there is a Transportation and Telecommunications amendment, AM1619. Senator Fischer, you're recognized to open. [LB816]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM1619, makes several changes to the original bill. The bill's original Section 34 is stricken and amended with a new definition of line make. The amendment gives more detailed explanation of what constitutes a distinct line make. The amendment strikes the statement that a dealer's liability coverage requirement does not imply that it is the primary source of coverage for a claim involving a dealer's fleet. This was a provision that did not fit with the overall theme of the bill and it should be addressed at another time. The amendment includes language to clarify that a manufacturer is not required to buy back unsold parts and inventory when a dealer sells a dealership to another dealer. The amendment creates an exclusion of the payment for the termination of a franchise when it is the termination of a line make by a franchisor of the recreational vehicles. In the recreational vehicle industry, unlike the auto industry, line makes are changed very frequently with no expectation of long-term continuance of any particular line make. In the prohibited act by a manufacturer of underutilizing a dealer's facilities by requiring a dealer to exclude or remove a competing line make of motor vehicle from its facilities, the amendment adds exclusion language that this does not prohibit a manufacturer from requiring exclusive sales facilities that are in

Floor Debate
February 01, 2010

compliance with reasonable requirements for the facilities. This change clarifies the fact that a manufacturer may still require a dealer to have a reasonably exclusive showroom. The amendment removes the requirement that the dealer must have actual knowledge of a vehicle being exported outside the United States, but instead, simply know about the exportation. Finally, the amendment requires a dealer that has been rejected for warranty claim to resubmit the corrected claim in a timely manner. Mr. President, I would say that this bill is long but it has been reviewed both by the industries and the manufacturers and they are in agreement with the amendment and the bill. Thank you, Mr. President. [LB816]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of the committee amendment AM1619. Seeing no requests to speak, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is on the adoption of AM1619 to LB816. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB816]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB816]

PRESIDENT SHEEHY: AM1619 is adopted. We will now return to floor discussion on LB816. Seeing no requests to speak, Senator Fischer, you're recognized to close. [LB816]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate your support on the amendment and I would urge you to advance the bill to Select File. Thank you. [LB816]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB816. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB816]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB816. [LB816]

PRESIDENT SHEEHY: LB816 advances. Mr. Clerk, do you have items for the record? [LB816]

CLERK: I do, Mr. President, thank you. Business and Labor, chaired by Senator Lathrop, gives notice of hearing. Agriculture chaired by Senator Carlson does likewise. New resolutions. Senator Nordquist offers LR303; Senator Ashford, LR304; Senator Lathrop, LR305; Senator Lathrop, LR306; Senator Pirsch, LR307. All of those will be laid over and considered at another time, Mr. President. That's all that I have. (Legislative Journal pages 408-411.) [LR303 LR304 LR305 LR306 LR307]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB788. [LB788]

CLERK: LB788 was a bill originally introduced by Senator Karpisek. (Read title.) Introduced on January 7 of this year, referred to General Affairs, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB788]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB788. [LB788]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. LB788 amends Section 53-125 and Section 53-103 of the Nebraska Liquor Control Act by clarifying that a manager for a corporation with a liquor license shall be a citizen and resident of Nebraska. The purpose for the requiring managers to be citizens and residents is to ensure that there is someone that the Liquor Control Commission can hold accountable for any Liquor Control Act violations. From a practical standpoint, this bill doesn't change anything that the commission is doing already. It is the current practice of the Liquor Control Commission to require citizenship and residency for managers. The reason for this bill is that currently there are two references to manager in the Liquor Control Act that arguably contradict one another regarding this requirement. LB788 makes it clear that a manager is required to be a citizen and a resident. At the hearing, Hobie Rupe, executive director of the Liquor Control Commission, testified in support of LB788. There were no opponents to the bill and I encourage your support of LB788. Thank you, Mr. President. [LB788]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the opening to LB788. Are there members requesting to speak? Seeing none, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question before the body is on the advancement of LB788. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB788]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB788. [LB788]

PRESIDENT SHEEHY: LB788 advances. (Visitors introduced.) We will now continue under General File. We'll proceed to LB200. [LB788 LB200]

CLERK: Mr. President, LB200 is a bill by Senator Janssen. (Read title.) Introduced on January 12 of last year, at that time referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. I have no committee amendments. I do have other amendments, Mr. President. (AM1644, Legislative Journal page 404.) [LB200]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on LB200. [LB200]

Floor Debate
February 01, 2010

SENATOR JANSSEN: Thank you, Mr. President, members of the body. We're moving pretty fast this morning. I'm not certain if that will continue on or not. LB200 is a proposal to remove the mandate that adults wear motorcycle helmets at all times, at all places, and at all speeds. I have an amendment to the bill, AM1644, that will eliminate the fiscal note. No General Funds were ever at issue here, but AM1644 gets rid of the minimal cash funds impact on the DMV. I hope that we can have a reasoned and responsible debate on this proposal and not let bad science on both sides of this issue cloud our discussion. We are engaging in an important debate about freedom, choice, and tourism. I hope we can discuss these issues on their merits, and let me discuss what I have before us this morning. LB200, if we adopt the amendment AM1644, would do two things. First, it would require that all motorcycle operators and passengers wear eye protection. Second, it would repeal the mandatory motorcycle helmet law for those persons at least 21 years of age. If the Legislature and the Governor approve LB200, Nebraska would join 30 other states, including our neighbors in Iowa, South Dakota, Kansas, Colorado, and Wyoming, in giving adults the right to choose on whether or not they want to wear a motorcycle helmet or not when they ride in the state. Nebraska has considered this idea almost annually. This debate sometimes strays into bad science and I hope we do not go there on LB200. I brought LB200 for two simple reasons. First, I think our freedoms in this country are very important. I joined the United States Navy after graduating from high school back in 1989. It was an honor to protect and defend the United States of America and her freedoms and liberties. It was an honor to share our values and our way of life with our friends and allies in the Persian Gulf during my two tours of combat service there. You gain a great deal of respect for our freedoms and liberties when you visit countries and territories that don't have the same emphasis on freedom and liberty. Many of the friends I made in our port stops remarked how amazing it must be to live in a society that delineates its freedoms and liberties in a Bill of Rights. We have respect for the rights of persons to be secure in their homes and the right to pursue happiness uninhibited from unnecessary and undue restrictions on our freedoms and liberty. I think LB200 provides us an opportunity to reconfirm a small portion of those great ideals. Secondly, Nebraska for too long has completely ignored and abandoned the opportunity for motorcyclists to travel through our state and spend their tourism dollars in Nebraska businesses. Millions of motorcycle enthusiasts across the United States travel great distances across our country to attend motorcycle-specific activities. I'm sure you're all aware that our neighbor to the north receives hundreds of thousands of visitors every summer for its annual Sturgis Festival. Hundreds of thousands also cross the country to attend events in Florida like the Biketoberfest. A large portion of these tourists do not plan the route through mandatory helmet law states. Only 20 states mandate that all adults wear motorcycle helmets. Tourists vote with their dollars and are saying "no" to Nebraska. This is unfortunate because we are such an important transportation network piece in the country. We have excellent roads, beautiful scenery, great shops and tourists sites, and wonderful people. I think it is time that we invite motorcycle enthusiasts with open arms to see our state's great

Floor Debate
February 01, 2010

opportunities. It would certainly bring dollars, much needed gas tax dollars. I think it's time that we give great consideration to the revenue opportunities that exist that we are currently missing out on. I think it's also important that the One Hundred First Legislature be given a chance to vote on this issue. Seventeen of us have not had the chance to vote on the motorcycle helmet bill, and none of us have had the chance to vote on a simple proposal that just asks if we think adults are able to decide for themselves whether they should be mandated to wear a motorcycle helmet at all times. The One Hundred First Legislature has not had a chance to answer that question that says, are we responsible enough as 30 other states, the citizens of the 30 other states that have repealed their helmet law? Should we not have that same right that those states do? I look forward to good discussion on this. I'm, of course, happy to answer any questions on this. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You have heard the opening to LB200. Mr. Clerk, do you have an amendment on your desk? [LB200]

ASSISTANT CLERK: Mr. President, Senator Janssen would offer AM1644. [LB200]

PRESIDENT SHEEHY: Senator Janssen, you're recognized to open on AM1644 to LB200. [LB200]

SENATOR JANSSEN: Thank you, Mr. President. AM1644, as I mentioned in my opening, would amend LB200 to eliminate the cash fund impact. The green copy of LB200 would have repealed the mandatory motorcycle helmet law for all persons 21 years of age or older. It would have also permitted young adults to ride without a helmet provided that they passed not only the state's motorcycle driver test, but also an approved motorcycle safety course under the Motorcycle Safety Education Act. The green copy also would have had the DMV stamp "helmet not required" on the Class M license. With AM1644, we would get rid of the young adult helmet option and remove the need to stamp the license of young adults. So if we adopt AM1644, which I hope we can do fairly quickly, we can debate LB200 without any fiscal impact to the state. The present fiscal note shows the DMV would have to find \$32,000 to reprogram their machines to do the "helmet not required" stamp, and \$13,500 each year to subsidize persons who teach motorcycle rider classes. All would have been cash funds. There has never been any General Fund impact on LB200. However, I feel it appropriate to move forward with this bill with zero fiscal impact at this time. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You have heard the opening of AM1644 to LB200. Members requesting to speak: Senator Gloor, followed by Senator Gay, Senator Dierks, Senator Price, Senator Rogert, and others. Senator Gloor, you're recognized. [LB200]

Floor Debate
February 01, 2010

SENATOR GLOOR: Thank you, Mr. President, members of the body. I took strong interest in this when I was involved in healthcare before I came down here and I do appreciate Senator Janssen bringing this back so that I have an opportunity to stand up and express my views, both prior to coming down here and now since I'm down here. And I'd like to share as Senator Janssen has talked about his military duty. In the early years when I was in the service, I was an EMT, drove an ambulance, and can remember one evening in Germany where I was stationed, of hearing a motorcycle in the distance all of a sudden stop very abruptly. Shortly thereafter we were in our ambulance summoned to a field only about 400 yards away where a young German lay in the field, had been traveling through the base, had lost control for reasons no one understands, and had gone off into a field that was soft. Didn't travel far, so the assumption the military police told us was that he wasn't traveling at a very high rate of speed, but appeared to be completely uninjured except he was unresponsive. And one of the striking memories I have of that night was in the dark, running around with lights on, trying to figure out what was going on, a rabbit bouncing around the accident scene--a white rabbit bouncing around the accident scene. And it was finally explained to us that this was a pet rabbit he kept in a knapsack on the back of his motorcycle. This rabbit was completely unscathed and bouncing around the field and yet the young man was unresponsive. Loaded him on an ambulance. He was taken to a German hospital, and 24 hours later was pronounced dead of head injuries that he had sustained. Here's an accident someone was involved in, traveling at a relatively low rate of speed on a motorcycle, at a low enough rate of speed so that even a bunny wasn't injured, and yet his head injuries were severe enough to take his life within 24 hours. Now, I understand the personal freedom issue, I really do. I'm a bicyclist. I always wear a helmet, in part because of that and other motorcycle accidents that I sadly was a participant in, in my role as an EMT. I lost friends in motorcycle accidents wearing helmets, so I understand that this isn't foolproof by any stretch of the imagination. But the low rate of speeds that people can travel at and still suffer life-threatening injuries has me concerned to the extent of saying I know it doesn't take much to cause death. But it's really debilitation that is my concern because had that young man survived, my guess is his injuries would have been so severe that he would have been a ward of the German state for the rest of his life and the German taxpayers would have supported that care, and the same will be true in Nebraska. There will be, there will be people involved in motorcycle accidents not at high rates of speed which is what we envision, but at very low rates of speed and they will become wards of the state and it will be the taxpayers' responsibility to pay for that care because their insurance will run out. And the disability payments, if they even have any, will be small enough...their private disability plans, for the few people that have them, will be small enough to not really cover the tens of thousands of dollars a year, the millions of dollars over the lifetime of someone who is of medium age. This will become a taxpayer burden, a taxpayer expense. And I know that it could be expensive, again, based upon some of my personal experiences with seeing people with head injury and the vast amounts of care that must go into taking care of them. I wish we could figure out a way to deal with this that would allow people... [LB200]

Floor Debate
February 01, 2010

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR GLOOR: Thank you, Mr. President. I wish we could figure out a way to allow people to travel through this state headed back and forth from Sturgis. I know this is about Sturgis to a certain extent when we talk about revenue. I don't see vast amounts of motorcyclists traveling around the state or hear of them traveling around the state at other times of the year, but it is an important financial migration. (Laugh) But I don't think it's worth the limited amount of revenue we bring in for that short amount of time for the amount of the expense I think we will see of people who are injured. There will be an expense for out-of-staters who won't have insurance to be cared for. On a long-term basis, my concern has to do with Nebraskans who live in Nebraska who are injured and who will become wards of the state. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Gay, you're recognized. [LB200]

SENATOR GAY: Thank you, Mr. President. I do think it's important that several of you that haven't voted on this issue get a chance to vote on it. I mean, I'm sure you've discussed this on the campaign trail with people and you've talked to constituents. This would be the second time I've got a chance to vote on it, but I've also had the opportunity to sit through a Transportation Committee hearing on the issue, gather facts. I'm looking at it from two ways: from the Health Committee standard and then also from Transportation Committee. But not so much that. I've heard from friends. You know, when you talk to people...I know personally and I bet many of you know personally people that have got in accidents and probably lived because they had a helmet on. Every single person that tells me, boy, I'm glad I had that helmet on, you know, if they hadn't, I doubt many of these would be around. I know several of them personally wouldn't be around to tell me that. This is common sense. I don't see it see a debate on the seat belt law. That's a personal freedom. I don't see anyone bringing a bill to repeal the seat belt law. Why not? I mean, it's safety. To say, bad science, I don't know if it's bad science because I've seen a lot of it. I've got a whole stack of things against the seat belt law science, but I don't have a whole lot for it sciencewise. So maybe if it doesn't add up to what you want, it's bad science. This whole book here that I've received that says, science against this. So when you look at this, I do understand the freedom part of it. I've had many of my friends, who wear helmets by the way, say, well, Tim, I wish you would vote to repeal that helmet because, you know, it's my choice. And these are just normal people. It's my choice. I say, well, if you're going to wear the helmet anyway, why...you know, I guess the freedom thing is absolutely, that's something to not dismiss because it is very important. But also I think this is a common-sense situation. We're talking about fiscal notes here and I don't want to get into all the fiscals. We will. But the traumatic brain injuries, the cost of those. Now we have an amendment to remove or to make sure minors, you know, over 21...well,

Floor Debate
February 01, 2010

anyone under 21 has to wear the helmet, they don't. If you're a police officer and you're out on a patrol and you're seeing people driving, how do you...is that guy 20, 21, 23, 25, 17? You know, what are they going to do? Pull over everyone and say, hey, are you...you know. What is the situation because I assume they could pull somebody over just, hey, he's under 21 or do you have to have a violation? That would be something that we should discuss. But I think in a lot of these issues, you're going to get a chance to vote. But listen to, you know, the facts are what they are. I don't think you say that, well, it's my personal freedom. You know, the government many times...and I know this is definitely...we're in the age of "don't tell me what to do, get out of my face." We're seeing our national government take huge control over healthcare and other issues. I agree, I think this is a common-sense issue when you ask yourself. And I do respect the other side's views, but when it all adds up, I think when you look at the safety issue and if we want to talk finances, we can talk finances because the cost of some of these programs that if somebody gets a traumatic brain injury for life. But look at what it does to a family and all those other people who have to deal with that. I think that's kind of a huge issue. It's not a financial issue, it's a life issue, a personal issue that those people that have to suffer because of their loved ones. We saw many people come in and say: You know, here's the deal. I was involved in a motorcycle accident. I was wearing my helmet and I'm here to tell you. And they've recovered and done some good things. They get to spend more time with their families. They get to continue on. I've also heard, well, don't...if they're not wearing a helmet and they crash, half of them are going to die anyway. I've heard the proponents say that, well, if they get into an accident half are going to die anyway; you won't have to deal with that. I mean, think about that statement. And I've heard it and probably... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR GAY: ...other of you have heard that. So there's a certain point here I think we've got to look at. I was talking to firefighters, I'm talking to just normal people who don't really have a dog in the fight. What do they do? Because they are paramedics and they got to go these accidents and they're telling me, Tim, don't do that. I think this is one of those things you got to weigh all the different issues. We're going to hear different things supporting, and proponents and opponents on this. I hope you listen and I hope we make a right decision. I don't think...I think repealing this thing is a bad decision. I think just because we're going to protect...we think we're going to protect minors, I'm not so sure how that works, the enforcement of this amendment, quite honestly. But maybe I'll hear more on that. So as we listen, I think you just need to look at all of the facts as far as the people who their loved ones are involved in the accident and then what's going to happen to them because it is more about money. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR GAY: Thank you, Mr. President. [LB200]

Floor Debate
February 01, 2010

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Dierks, you're recognized. [LB200]

SENATOR DIERKS: Thank you, Mr. President and members of the body. Senator Janssen: No. I was here when the original bill passed. I know what has happened as a result of that original bill, the protection that our people have of those elements. If we save one life because we force them to wear helmets, it's worth it to me. And we've done much more than that. And we've done more than that from the standpoint of injury. I see no reason for us to support this legislation. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Price, you're recognized. [LB200]

SENATOR PRICE: Thank you, Mr. President and members of the body. On this day we have before us something, of course, that's challenging once again. We have a situation where people will talk about personal freedoms and rights, and then we have the concern of our republic, if you would, about if the person is injured and they must remain on the state books, you know, for a traumatic brain injury. I'm sure we all have stories of friends who have had accidents and it goes both ways. But I'll be mindful to say that I remember driving, whether it's a car or moped, a four-wheel drive, a mini truck, that is not necessarily a right; that's a privilege. We have the privilege to drive. And I'm going to listen to the debate and then later on I'm going to bring forward an amendment that will sunset this in five years so that we can give everybody an opportunity to see what is actually ground truth. Everybody will come up with their facts, anecdotal, and their heresays, and what-says, and whatnots. But there will be an amendment to come up that we will have a chance to debate on sunseting this in five years. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on AM1644 to LB200: Senator Rogert, followed by Senator Lathrop, Senator Avery, Senator Hadley, Senator Janssen, and others. Senator Rogert, you're recognized. [LB200]

SENATOR ROGERT: Thank you, Mr. President. Good morning, members. This is exciting. We stopped our consent calendar movement. We've stopped at a major policy change discussion for the first time this year. I fully expect that this will be a long and fruitful discussion for the next day or two, and I encourage everybody to listen and watch and propose ideas and move forth the discussion and listen to Senator Lathrop and Senator Gay and listen to Senator Janssen and myself and those who are for this and those who are against it, and enjoy the process as it works the way it's supposed to. As most of you know, I carried this bill for a couple of years. I prioritized it in my second year. It failed to advance out of General File at a 24 green vote. One short. A lot

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

of folks today are...who were here then are not, and so we have some new folks, and I think we deserve the discussion again. We are in a fiscal crisis across the United States, in the Midwest. And in Nebraska it's less, but we're still looking at a serious shortfall in revenues. Folks are spending less, making less. We're receiving less. It comes to my attention daily that Nebraska is considered one of the highest tax states in the Union. Our neighbors to the north, south, east, and west touching our borders are taxed less by their governments. I've maintained since my presence in this Legislature that we do a considerable amount of things differently in Nebraska than our neighbors. Some of those things create us to be a leader. Some of those things, in my opinion, put us in the loser category. All too often I get...I read an article, I see an e-mail, I receive information that says Nebraska is the last to do this or we are one of the only ones that still does this or we're still one of the people that doesn't do it. There are a lot of things that we do in Nebraska outside of the rest of them that put us in the leader category. Your decision in this will be whether we should continue to be a leader or whether we're a follower. I believe that we lose tax revenue yearly because of this law. I do a lot of business in western Iowa. Up and down I-29, up and down the highways of the little towns between Sioux City and Council Bluffs, every weekend, I see towns full of motorcycles. And I come back home to Tekamah and I see five or six motorcycles. They ride around us. They spend their money in other states. They spend them in Iowa, they spend them in South Dakota. They drive from Omaha to Council Bluffs, pull over at the casino where they have gambling, take off their helmets, and get back on the highway, and then go spend their money over there. We cannot continue as a state to protect ourselves from ourselves in every possible way that stops the revenue from coming here. This is one of those issues that we have to talk about. Whether we decide to repeal this law or not, it is an absolute fact that we lose money because of it. Is that loss in revenue worth the lives that are saved? It's up for you to decide. The government, the U.S. federal government withholds federal money from states that do not have a seat belt law in effect. I believe that is because they think the seat belt law saves lives unequivocally and I do not disagree with that. They do not withhold money because of this law. They do not and have not... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR ROBERT: ...withheld money from states because of a required helmet law. That seems to me to prove that there are doubts from the lives saved from this law. I believe you hit something on the highway, it's tragic. A helmet is not going to save you. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Lathrop, you're recognized. [LB200]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in opposition to LB200, and I will say that I didn't support it when it was introduced by Senator Rogert,

Floor Debate
February 01, 2010

and the policy behind it hasn't changed. I think it's a bad idea. And I have a little bit of a different perspective because I've met some of these people that have been involved in injuries that leave them with a brain injury. And you were provided a book in your office this morning. I hope you have taken an opportunity to read it because the book will tell you the statistics that relate to the policy that we're discussing. And you, of course, have been lobbied by people from ABATE and I appreciate their argument about personal freedoms. But in my experience, having represented people that get hurt in all kinds of things, including motorcycle accidents, for 30 years, I can tell you two things about motorcycle accidents and the people that ride motorcycles. The first thing is that it's almost never their fault. Typically, the typical motorcycle accident is somebody turning left in front of a motorcycle, somebody pulling out from a stop sign that doesn't see the motorcycle. I appreciate that we train motorcyclists and that most of these accidents are not their fault. But the second thing that's true about motorcycle accidents and the people that ride motorcycles is that they never think it's going to happen to them. So the people that are here today lobbying for this bill, believe me, they would wear a helmet, they would support this bill if they knew that it would save their life. But their assumption and their operating premise is it's not going to happen to me. But it does. And when you look at the statistics, and I want to talk to you about those for just a second. Look at the statistics on that...in that book that you got this morning. You will see we have somewhere between 500 and 600 motorcycle accidents in the state of Nebraska every year. And as policymakers we need to look not at the guy who shows up at your door and says, I want to decide for myself, but we ought to look at the numbers because they're there--500 to 600 motorcycle accidents a year in Nebraska. And we also know that if we repeal the helmet law, half of those people, half the people who ride motorcycles will not wear a helmet. So we now have 250 to 300 people who will be involved in accidents without a helmet. And we also know that if you are without a helmet, you are 40 percent...I think the statistics are 40 percent more likely to die in that accident and three times as likely to have a brain injury--three times as likely. So who pays those? The statistics I read this morning is that about 28 percent of those people don't have any insurance at all. So who pays for it is you. We should have a fiscal note, not dealing with the issues of changing the license, but we ought to have a fiscal note on what it's going to cost Medicaid to pick up the cost of these significant, significant injuries. I have met the families of people whose sons and daughters have had brain injuries. And they are statistics to us as we discuss this, but I've met them and I know them. I've met them at the ICUs and I've seen them at the funerals. And if we pass LB200, we are essentially saying that having a few more people buy lunches somewhere or drive through Nebraska... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LATHROP: ...and maybe buy a little more gas is more important than the people who will lose their lives because we've repealed this and the people who will have brain injuries. And I can tell you those folks have no advocate because nobody

Floor Debate
February 01, 2010

thinks it's going to happen to them. You look at the list in the Nebraska statistics that was in that book that you got. Look at the people who support continued...keeping the helmet law in force and oppose LB200. It is the doctors and the emergency rooms, it's the nurses, it's the Brain Injury Association, it's virtually every insurance company. Anyone who looks at this as a policy issue with 600 motorcycle accidents--and half of those people won't have helmets next year if we repeal this--it is bad policy. We are inviting more deaths on the road and more brain injuries that we will ultimately, as a state, be responsible for. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR LATHROP: Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Avery, you're recognized. [LB200]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I wonder if Senator Janssen would be willing to yield to a question. [LB200]

PRESIDENT SHEEHY: Senator Janssen, would you yield to Senator Avery? [LB200]

SENATOR JANSSEN: Certainly. [LB200]

SENATOR AVERY: Senator Janssen, would you please tell me what is the public purpose that is served by this bill. [LB200]

SENATOR JANSSEN: Not certain I follow what you're asking me, the public purpose of the bill. The intent of the bill is to repeal the helmet law for those people age 20 and below. [LB200]

SENATOR AVERY: Well, we make public policy. Public policy normally has some public purpose behind it. And I haven't heard yet any discussion of what public purpose is served by this. [LB200]

SENATOR JANSSEN: I apologize, Senator Avery. Perhaps you weren't here for my opening when I gave the reasons for proposing this bill. The first one is it would, basically, from a freedom standpoint, which we seem to be dismissing quite a bit this morning. Freedom is good but...I see the freedom side but...I see the choice side but also. I hear a lot of that going on right now. I'm sorry that I just cannot dismiss my freedoms as willy-nilly or as easy as others can... [LB200]

SENATOR AVERY: Okay, thank you, Senator Janssen. I'm quite glad that you reiterated the freedom argument. The right to choose, I think, was a word...a phrase you

Floor Debate
February 01, 2010

used. I think you also talked about freedoms being important. There's no disagreement in this body about the importance of freedom. But I think what we need to keep in mind is that personal freedom must always be balanced against the public good. That's why I started out by asking, what is the public purpose of this? What public good is being served here? In my opinion, this bill actually harms the public good because it seems to me that the public interest here is to protect public safety, not to give motorcyclists the freedom to ride with their hair blowing in the wind because it feels good and at the same time jeopardizing their own health and safety and putting at risk my insurance rates, the overall cost of healthcare and the cost of insurance in this state. One's right to exercise their personal freedom ends when the exercise of personal freedom diminishes the public interest. I like to drive fast, but I don't have the right to exercise my individual preference of driving fast because to do so would be to threaten the public interest. It's in the public interest that people obey reasonable laws that restrict their personal freedom if the exercise of that personal freedom is to diminish the public good. We always have to remember that personal freedom is never absolute. In fact, the founding fathers generally recognized the need to balance personal liberty against the common good. And that is always a challenge in a democracy. When do you say that the exercise of personal freedom has to be restricted in order to protect the community good? I believe that this issue is deeply embedded in this debate and it's what we are talking about today and probably will be talking about it in the future. So I would like for us to put aside the personal liberty issue and focus our attention instead on the public interest. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR AVERY: What is the public interest here? The public interest to me seems to be quite clear. The National Highway Transportation and Safety Administration estimates that helmets reduce the risk of fatal...a head injury by 40 percent, and the risk of death in a motorcycle crash by 37 percent. That's in the public interest. Doesn't have anything to do with personal freedom. It's in the public interest that we provide for public safety, that we hold down the costs of health insurance. All of us will pay more for health insurance if this bill is repealed. We know from statistics that have been prepared that unhelmeted motorcyclists are three times more likely to suffer brain injuries than those riders who use helmets. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR AVERY: Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Hadley, you're recognized. [LB200]

SENATOR HADLEY: Mr. President and members of the body, I voted against LB200

Floor Debate
February 01, 2010

twice in the committee. I sat and heard all the testimony. And I, too, have some of the same concerns that Senator Avery, Senator Dierks, Senator Gloor have. One of the things I try to do is to be consistent. How do you handle things on a consistent basis? And we're asking about the personal freedoms, personal rights of people versus the duties to society. For example, the speeding issue. Wouldn't it be nice to be able to go as fast as you can? Why do we have a speed limit? It's partially to protect people and the speeder. If we wanted to have economic development, I'll guarantee you if we put a 100-mile-an-hour speed limit in Nebraska, we'd have a lot of people wanting to come through Nebraska. But is that good for Nebraska? Stop signs. Why should I have to stop at a stop sign? If I don't see anybody coming, do I have a personal right to be able to drive through it? We had one person in favor of this bill that said he also believed that seat belts were an imposition on his personal rights. Yet we have a law dealing with seat belts. So I think consistency is very, very important. But my main reason for opposing this is, what is a life worth? How many lives will we save by having a helmet bill? One, 2, 3, 10, 20, 30, 40? What are they worth? Is a life saved worth the dollars we might lose in economic development? How much are we willing to want to get from economic development to give up lives? And I have to say this: One of the reasons that I was opposed to repealing capital punishment was that if capital punishment saved one person's life, saved one person's life as a deterrent, how can I vote for a bill that might cost the lives of numerous people on the Nebraska highways? So I am right now opposing it. I have heard nothing today that would change my mind, but I will continue to listen to the dialogue. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Members requesting to speak on AM1644 to LB200: Senator Janssen, followed by Senator Wightman, Senator Haar and others. Senator Janssen, you're recognized. [LB200]

SENATOR JANSSEN: Thank you, Mr. President and members of the body. Thank you for the discussion that we've had so far. Obviously, very interesting. And I, too, like Senator Rogert, do appreciate a little bit of a slow down and stopping with our so-called consent calendar this morning as well. A couple of things I wanted to touch on of some of the comments that have been brought up, and I've already talked to Senator Gay off the mike. But he brought up what do we do if a police officer sees somebody, he's not going to be able to tell their age, if they're 21 or not, under 21. That is covered in the bill itself. The violation of not wearing a helmet is a secondary offense, much like the seat belt law, since we're using that as a relevancy, that you cannot be pulled over due to that. However, the goggle-wearing is a primary offense. So if you had somebody not wearing the helmet and goggles or just the goggles actually they could get pulled over. So that debunks that argument. Again, I didn't get a chance to answer all of Senator Avery's question: the purpose. I got the first part out, the freedom, which he obviously doesn't believe in the freedom to choose on this particular issue. It's not one of his issues that he thinks freedom should go to. The second part of it was revenue, revenue into our state. I think that's very important. It was covered in my opening about...I talked

Floor Debate
February 01, 2010

to many motorcyclists who have said that they go around the state, they tell their friends to go around the state. Sometimes they do come through the state and they pack up in their...they put their motorcycles in their trailers and they come through Nebraska because it's the quickest way to get here, but they don't stop as much. You're going to stop more if you're on a motorcycle. So the revenue side of it is certainly a piece that I think cannot be ignored. The Fiscal Office put nothing in the bill about a cost to the state that I keep hearing about. They did not recognize the revenue that it will bring in and they did not recognize the, I guess, the myth that it will cost more due to brain injuries, suspected brain injuries, or whatnot. I was a little bit taken back that a member of our body, a former university government teacher, has dismissed the personal liberties and has decided to decide for all of us. But possibly that's because he was so busy studying insurance, because he is sure that his insurance will rise because of this. Again, I'm not an insurance adjuster. I can't tell you that it would or would not. I can just tell you 30 other states have enacted this repeal. I don't see their insurance rates going through the roof. I don't see the ER wards full of helmet victims. And I'm sure it is traumatic. I'm sure it's very traumatic for the hospital workers. And I don't begrudge them one bit in opposing this bill. I think it's their...they almost have to oppose this bill. I'm just hoping we can stay on course this morning and keep the discussion focused and not on the ridiculousness. I heard something about...I wasn't certain if Senator Gloor wanted to put helmets on bunny rabbits in the satchel of motorcycles early on this morning. So I'd like to keep us a little bit focused here on the law. And with that, I'll yield the balance of my time to Senator Lautenbaugh. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of LB200. And historically I have been in support of this bill, support of the repeal. And I won't discuss the economic factors. Those have been discussed. I would like to discuss the public policy aspect of it and again the freedom aspect of it. And those of you who may remember some other debates that we've had, I think I try to err on the side of maximizing liberty, even if there can be a case that perhaps the conduct might not be healthy, perhaps the conduct might not be something we approve of,... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LAUTENBAUGH: ...I think we have to leave--thank you, Mr. President--as much up to the individual as we can, as long as it does not hurt someone else. And so I've heard the discussion that, well, we have public policies of speed limits, we have public policies of stop signs, etcetera, etcetera. All those things protect other motorists; they aren't just self-regarding. I believe helmets are different. You can make the argument regarding, oh well, this could lead to more healthcare claims. You could say that about cigars, heaven forbid. You could say that about many things that we do, fatty foods that are unhealthy. But in the end the public interest is not unlimited. It has to yield to personal freedoms. I see the value in helmets, and we're not telling anyone you can't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 01, 2010

wear a helmet. I make my kids wear a helmet when they ride their scooters. I wear a helmet when I ride my bike. It's at least possible I should wear a helmet walking to the Capitol, based upon earlier this session, but that's my choice. And we should leave it to people to choose. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR LAUTENBAUGH: Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Speaker Flood, you're recognized for an announcement. [LB200]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. We are going to be adjourning at noon today and we will be starting tomorrow morning at 9:00 a.m. I just wanted to make sure that was clear--a 9:00 a.m. start on Tuesday, February 2. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Senator Wightman, you're recognized. [LB200]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I rise in opposition to both AM1644 and LB200. As all the rest of them have said, I certainly understand the personal liberty, personal freedom argument. But I do think that the state has a vested interest in protecting its funds, and I do think that all of the studies indicate that a great deal is paid out over a period of time and I don't think it's all just for the injuries. I think and I've heard some people say, well, they're not as concerned over the ones that get killed because that was the choice of the person who was riding the motorcycle. They're concerned over the large personal injury claims that there might be...not personal injury, but expenses paid out for medical expenses. But I think even the ones that get killed probably also add to the state's expense because I think that...and I think statistics would prove that out that there are dependent children that all of a sudden don't have a source of support. And I think even the deaths, a number of them, result in harm to the fiscal position of the state of Nebraska. And when we get to personal freedom, you know, almost all states have a law against suicide. Of course it's pretty hard to prosecute the person who's successful, but if he's not so successful maybe they can be prosecuted. But the ultimate in personal liberty would be to remove all of those, because certainly you may be injured in that, too. But, you know, to me that's the ultimate in personal liberty. And I don't know why we have states against that. And perhaps Senator Janssen will bring...I think we have one, a law against that in the state of Nebraska as well. But I know a lot of states do have laws that prohibit suicide attempts and make it illegal with regard to suicide so maybe Senator Janssen will attack that next, I don't know. But...and I don't really mean this facetiously, but I think it's an indication of where we might go with personal freedoms. I think that personal freedoms,

Floor Debate
February 01, 2010

as Senator Avery stated very well, have got to at some time take a backseat to fiscal responsibility and to public policy. And I think that there is a real public policy in continuing to require motorcycle helmets. I assume we lose a little money as people...motorcyclists maybe evade the state of Nebraska on their way up to Sturgis or wherever they may be going. I don't know how big an issue this is. I doubt that there's any statistics that are very reliable in this regard. But I think that that is a fairly insignificant argument in favor of removing the helmet law as far as I'm concerned. So I will continue to oppose any attempt to repeal the motorcycle helmet law and ask that you support that as well. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Haar, you're recognized. [LB200]

SENATOR HAAR: Mr. President and members of the body, up until about 15 years ago I rode a motorcycle. Had a Honda CX500 water-cooled, shaft-driven, a really beautiful machine. And I bet I put 100,000 miles on those motorcycles. And there's nothing greater than getting out on the highway on a summer day with the wind blowing in your face and in your hair. I know that. About 25 years ago, I was driving down a Lincoln street, going about 15 miles an hour at dusk, and a woman had just had a "let's get divorced" discussion with her husband. And all of a sudden she went through a yield sign and all of a sudden I had a car right in front of me. And I couldn't do anything. I had training. I was obviously already over the age of 21. I was and am a defensive driver. There was nothing I could do, that car was in front of me, and I'm convinced that a helmet saved my life. Looking at the scrapes...well, the motorcycle was totaled, my helmet was all scratched, and I still have a broken wrist that hurts me sometimes from that accident, although I didn't quit riding, I didn't quit riding because of that accident. I got another Honda CX500 that looked about the same, and continued to ride. But I...and when the ABATE people came and talked to me, I told them straight away that I am absolutely convinced that that helmet saved my life and that it's a reasonable, not only reasonable but good public policy to require helmets. I realize the importance of freedom of choice, of tourism. But in so many issues we deal with we have to prioritize, and my priority in this issue is safety. I've experienced the safety that helmets bring. I think I would...if I weren't dead, I would at least have been debilitated by that accident if I weren't wearing a helmet. We've heard talk about 30 states that have repealed various helmet laws. And I guess I just have to say in this body I've heard when we're one of only a few states, either we're lagging or we're providing leadership, one or the other. You can use that argument both ways; I've used it both ways. So I think it is providing leadership, the fact that we have in place required helmet laws, and I will vote against LB200 because I think it saves lives. Thank you very much. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Harms, you're recognized. [LB200]

Floor Debate
February 01, 2010

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition of this bill and I have every time that we've had the opportunity to discuss it. I do understand and I do appreciate people's thoughts and their views in regard to their rights. I understand that people would like to have the freedom to do what they would choose in regard to the motorcycles. But I'd like to take just a moment, if I can, to look at some key facts that I think you need to take into consideration when you start to look at this particular issue. In 2006, 4,810 motorists died and approximately 88,000 were injured in highway crashes in the United States. Per mile traveled in 2006, a motorcyclist is approximately 37 times more likely to die in a crash than someone riding in a passenger car. Head injury is the leading cause of death in motorcycle crashes. An unhelmeted motorcyclist is 40 percent more likely to suffer fatal head injuries and 15 percent more likely to suffer a nonfatal injury than a helmeted motorcyclist when involved in a crash. The statistics just go on and on, in reading, and people have studied this issue for years and the conclusion comes to the same--it's dangerous, it's not appropriate, and what happens when people are injured and injured for life, that the state ends up picking up a lot of those costs. When your insurance money runs out and you don't have the money to be able to have the treatment, we start to pick those costs up. And I would just urge you to, as we continue this debate, I have a lot more data I could walk you through but I'll wait for another day, that pretty much tells a story about helmets or not helmets and laws versus no law. I would just urge you to give this some serious thought. I appreciate Senator Janssen bringing this out. I think it's important to have the discussion. This is a new body and I'm hopeful that this bill will not go anywhere because I don't think it's appropriate at all at this time. Thank you, Mr. President and colleagues. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Harms. Mr. Clerk, do you have items for the record? [LB200]

CLERK: I do, Mr. President. A Reference report referring certain gubernatorial appointees to a standing committee for confirmation hearings. Amendments to LB200 by Senators Lathrop and Price to be printed. Name adds: Senator Gloor to LB817; Senator McCoy, LB865; Senators Mello and Gay to LB1004. (Legislative Journal pages 411-412.) [LB200 LB817 LB865 LB1004]

And I have a priority motion, Mr. President. Senator Flood would move to adjourn until Tuesday morning, February 2, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, February 2, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.